

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JANICE D. AYLER,

Plaintiff,

V.

CASE NO. C24-5076 BHS

ORDER

IQ DATA INTERNATIONAL INC., and
SILVER RIDGE VILLAGE LLC,

Defendants.

This matter is before the Court on Plaintiff Janice Ayler's motion for default

judgment. Dkt. 11. Ayler asserts that Defendant Silver Ridge Village LLC has failed to plead or otherwise defend under Federal Rule of Civil Procedure 55(a). *Id.* at 1.

Ayler filed a Proof of Service indicating that she served a summons and complaint on Hannah Witherspoon, “who identified themselves as the person authorized to accept with identity confirmed by subject stating their name.” Dkt. 10 at 1.

On this record, the Court is unable to verify whether Witherspoon is authorized to receive service of process under Fed. R. Civ. P. 4(h). Washington's Secretary of State website does not list Witherspoon as a person who is authorized to receive service of

1 process for Silver Ridge Village LLC.¹ The Secretary of State lists Yanna Zhang as
 2 Silver Ridge's registered agent (and one of its governors). The other listed governor is
 3 Qing Zhong. Ayler did not serve either of these people, and she does not explain how or
 4 why Witherspoon was authorized to accept service. Therefore, Ayler is not entitled to
 5 entry of default, let alone a default judgment.

6 Even if Ayler effected proper service, she would not be entitled to default
 7 judgment. Upon entry of default, this Court takes as true the factual allegations in the
 8 non-defaulting party's complaint, except those related to the amount of damages. Fed. R.
 9 Civ. P. 8(b)(6); *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917–18 (9th Cir. 1987).
 10 Nonetheless, “[e]ntry of default does not entitle the non-defaulting party to a default
 11 judgment as a matter of right.” *Warner Bros. Entm't Inc. v. Caridi*, 346 F. Supp. 2d 1068,
 12 1071 (C.D. Cal. 2004) (internal quotation marks omitted) (quoting *Valley Oak Credit
 13 Union v. Villegas*, 132 B.R. 742, 746 (9th Cir. BAP 1991)). The “general rule [is] that
 14 default judgments are ordinarily disfavored. Cases should be decided upon their merits
 15 whenever reasonably possible.” *Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986)
 16 (citing *Peno v. Seguros La Comercial, S.A.*, 770 F.2d 811, 814 (9th Cir. 1985)). Whether
 17 to grant a default judgment lies within the district court's discretion. *Id.*

18

19

20 ¹ The following hyperlink to the Washington Secretary of State website lists Silver Ridge
 21 Village LLC's registered agent and governors:
 22 [ORDER - 2](https://ccfs.sos.wa.gov/?_gl=1*9k1boh*_ga*ODg0Nzk2NzIwLjE2NjQzMjA3NjM.*_ga_7B08VE04WV*MTcxMjA5OTc5MC4zLjAuMTcxMjA5OTc5NS4wLjAuMA..#/BusinessSearch/Busin

 essInformation.</p>
</div>
<div data-bbox=)

1 Under *Eitel*, the Court considers seven factors in deciding whether to grant a
2 default judgment: (1) the possibility of prejudice to the plaintiff; (2) the merits of the
3 plaintiff's substantive claims; (3) the sufficiency of the complaint; (4) the sum of money
4 at stake in the action; (5) the possibility of a dispute concerning material facts; (6)
5 whether the default was due to excusable neglect; and (7) the strong policy underlying the
6 Federal Rules of Civil Procedure favoring decisions on the merits. 782 F.2d at 1471–
7 72. Ayler does not discuss any of these factors.

8 Accordingly, Ayler's motion for default judgment, Dkt. 11, is **DENIED**.

9 **IT IS SO ORDERED.**

10 Dated this 3rd day of April, 2024.

11
12
13 
14 BENJAMIN H. SETTLE
United States District Judge